



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,134	10/03/2001	Truc D. Nguyen	66329/14561	2126
23380	7590	01/30/2006	EXAMINER	
TUCKER, ELLIS & WEST LLP 1150 HUNTINGTON BUILDING 925 EUCLID AVENUE CLEVELAND, OH 44115-1475			PHAM, CHRYSTINE	
		ART UNIT	PAPER NUMBER	
			2192	

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/970,134 Examiner Chrystine Pham	NGUYEN ET AL. Art Unit 2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 31 October 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 39-72 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 39-72 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on October 31st 2005 has been entered.
2. This action is responsive to Amendment filed on October 31st 2005. Claims 1-38 have been canceled. Claims 39-72 are new claims. Claims 39-72 are pending.

Response to Arguments

3. Applicant's arguments with respect to new limitation "graphical user interface generation" currently recited in independent claims 39, 47, 55, and 64 have been considered but are moot in view of the new ground(s) of rejection.
4. Other arguments have been fully considered but they are not persuasive.
 - ❖ First, Applicants contend, "*Rosen teaches away from a user-directed driver installation*" (page 10 of 11, 4th paragraph). More specifically, Applicants rely on paragraph [0009] of Rosen to conclude that "*Rosen teaches a system for [“]automatically communicating the built-in device driver to the computing device.[“]*. Thus, the [*“*]user of the computing device is not required to locate, install

or configure a device driver before using the printing device” (page 10 of 11, 2nd paragraph).

➤ The Examiner respectfully disagrees and submits that this is a rather narrow reading of Rosen because the teaching of Rosen is not limited to just the features disclosed in paragraph [0009]. On the contrary, paragraph [0033] and step 306 of Fig.3 clearly teach a step of **determining**, by the client/user computer, **whether to use** the printer driver stored in the printer device. Step 310 further teaches transferring/loading the printer driver to a storage area in the computer. Needless to say, the **outcome** of the **determining** step in 306 (i.e., “yes”) clearly **directs** the control flow to loading the printer driver to the user computer in step 310 (as supposed to obtaining the printer driver from another source in step 308). Paragraph [0043] teaches the printer storing a **help file**, which is used to assist the **user** of the printer to install/update printer drivers. The **help file** identifies the location of the updated printer driver. The same paragraph further teaches **displaying** the help file on the user computer (i.e., to the user/operator of the computer to facilitate step 308 of obtaining of a printer driver from another source in Fig.3). Thus, it is clear, from paragraph [0043] and steps 306-310 that the step of **determining** (whether to use the printer driver stored in the printer) is performed by a user/operator of the computer.

❖ Applicants further contend, “[Slivka] is directed to a remote software update procedure. The patent is not directed to installation of device drivers” (page 10 of 11,

last paragraph). The Examiner respectfully disagrees with Applicants' characterization of Slivka.

➤ It is respectfully submitted that "remote software update" clearly anticipates **remote software installation**, in which client computers download and install software updates provided by a central update service. Furthermore, it should be noted that Slivka was not relied upon for teaching installation of **device drivers** *per se*. Thus, the test for obviousness is not whether the features of a Slivka may be bodily incorporated into the structure of the Rosen; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Since the device (i.e., printer) drivers disclosed by Rosen are software and, as has been established in the final Office Action, Rosen and Slivka are analogous art because they are directed to installation of software. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Slivka into that of Rosen for the inclusion of features such as option to delay installation of the software, which is specified by the user to take place at a later time.

Claim Objections

5. Claim 40 contains the following informalities:

“the graphical user generation” (line 3). “the graphical user generation” should be replaced with --the graphical user interface generation--.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
 - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
7. Claims 39-40, 42-44, 47, 48, 50-52, 55, 56, 58-61, 64, 65, 67-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosen of record (US 2003/0048473 A1) in view of Henry et al. (US 6681392, hereinafter Henry).

Claim 39

Rosen teaches a system for network-based uploading (i.e., providing) of drivers (i.e., device software) (see at least *414, 412, 410* Fig.4 & associated text; *printer drivers 414, printer 402 or 404* paragraph [0038]; paragraph [0012]) for document processing devices (i.e., network peripheral devices or printers) (see at least *402, 404* Fig.4 & associated text) comprising:
Means adapted for selectively receiving into a memory (see at least *memory 112* Fig.1 & associated text) associated with a document processing controller, software drivers (see at least *printer driver 114* Fig.1 & associated text) for use with associated workstations (i.e., client

machines) (see at least *computing devices* paragraph [0029]) in data communication with a document processing device means associated with the controller (see at least *print engine, processor, storage device, printer driver, computing device* paragraph [0013]; *communication application 116* Fig.1 & associated text); user interface generation means including means adapted for generating a user interface on the associated workstations (see at least paragraph [0021]; steps 302-304 Fig.3 & associated text), which user interface includes data representative of at least one available software driver stored in the memory (see at least 304, 306 Fig.3 & associated text); input means adapted for receiving user input (see at least 310 Fig.3 & associated text), via the user interface, which user input directs loading of the at least one software driver to a storage area on the associated workstation (i.e., client machine) (see at least 310 Fig.3 & associated text); and means adapted for commencing a transfer (i.e., downloading) of the at least one software driver to the storage area (see at least 312 Fig.3 & associated text).

Rosen does not expressly disclose said user interface as a **graphical** user interface. However, Henry teaches a system and method for installing printer drivers in networked computers wherein a graphical user interface is generated to identify the available printer driver and to receive user input directing the loading of the driver to said computers (see at least *Local Printer Install* Fig.2 & associated text; *Local Computer* Fig.3 & associated text; *Printer Drivers* Fig.5 & associated text; *Install GUI* 701 Fig.7 & associated text; 802, 803 Fig.8 & associated text). Rosen and Henry are analogous art because they are directed to installation of printer drivers on networked computers. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Henry into that of Rosen for the inclusion of a graphical user interface. And the motivation for doing so would have been to control the

installation of printer drivers on other remote computers from a local computer (see at least *Henry* col.2:30-67).

Claim 40

The rejection of base claim 39 is incorporated. Rosen (as modified by Henry) teaches the graphical user interface generation means further includes means adapted for generating a graphical user interface on the associated workstations, which graphical user interface includes data representative of an alternative software driver to the at least one available software driver, which alternative software driver is stored in the memory (see at least *printers 402 and 404, download updated printer drivers 414* paragraph [0038]); and the input means includes means adapted for receiving user input, via the graphical user interface, which user inputs directs loading of the alternative software driver to a storage area on the associated workstation (see at least *310 Fig.3 & associated text*).

Claim 42

The rejection of base claim 39 is incorporated. Rosen (as modified by Henry) further teaches comprising means adapted for initiating generation of the user interface upon a loading of the at least one available software driver into the memory associated with the document processing controller (see at least paragraphs [0040]-[0041]; *502-510 Fig.5 & associated text*).

Claim 43

The rejection of base claim 39 is incorporated. Rosen (as modified by Henry) further teaches wherein the document processing device includes a printing device, and wherein the software driver is comprised of a printer driver (see at least *print engine 102, printer driver 114 Fig.1 & associated text*).

Claim 44

The rejection of base claim 43 is incorporated. Rosen (as modified by Henry) further teaches wherein the storage area includes at least one of a hard disk and non-volatile memory in data communication with the printing device (see at least *hard disk drive, nonvolatile memory paragraphs [0027]-[0028]*).

Claim 45

The rejection of base claim 43 is incorporated. Rosen further teaches wherein the means adapted for commencing transfer of the at least one software driver to the storage area includes means adapted for commencing transfer automatically once the user directs loading of the at least one software driver to the associated storage area (see at least *312 Fig.3 & associated text*).

Claims 53, 62, and 71

Claims recite limitations which have been addressed in claim 45, therefore, are rejected for the same reasons cited in claim 45.

8. Claims 41, 49, 57, and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosen in view of Henry further in view of Murata (US 6247081 B1).

Claim 41

The rejection of base claim 40 is incorporated. Rosen and Henry do not expressly disclose wherein the alternative software driver is one that was previously loaded on the software workstation so as to facilitate selective rollback to an earlier driver version. However, Murata teaches a system and method of installing device drivers, in which a previously loaded (i.e., installed) driver is re-installed so as to facilitate selective rollback to an earlier driver version (see at least Abstract; col.10:55-65). Murata, Rosen and Henry are analogous art because they are directed to installation of device drivers. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Murata into that of Rosen and Henry for the inclusion of re-installing a previously installed driver version. And the motivation for doing so would have been to provide recovery from corrupted printer drivers, which are downloaded and installed (see at least Murata col.10:55-65).

Claims 49, 57, and 66

Claims recite limitations which have been addressed in claim 41, therefore, are rejected for the same reasons cited in claim 41.

9. Claims 46, 54, 63, and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rosen in view of Henry further in view of Slivka et al. of record (US 6256668, hereinafter Slivka).

Claim 46

The rejection of base claim 43 is incorporated. Rosen and Henry does not expressly disclose wherein the means adapted for commencing transfer of the at least one software driver to the storage area includes means adapted for receiving user input to commence transfer once the user directs loading of the at least one software driver to the associated storage area (see at least col.10:1-17). Slivka, Rosen and Henry are analogous art because they are directed to installation of software. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of Slivka into that of Rosen and Henry for the inclusion of receiving user input to commence transfer. And the motivation for doing so would have been to provide a safety and security measure for the user computer (see at least Henry col.10:1-17).

Claims 53, 54, 62, 63, 71, and 72

Claims recite limitations which have been addressed in claims 45 and 46, therefore, are rejected for the same reasons cited in claims 45 and 46.

Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chrystine Pham whose telephone number is 571-272-3702. The examiner can normally be reached on Mon-Fri, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Q. Dam can be reached on 571-272-3695. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CP
January 21, 2006



TUAN DAM
SUPERVISORY PATENT EXAMINER